

The 22nd December, 1994

No. 14/13/87-6Lab./1020.--In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Central Act No. XIV of 1947) the Governor of Haryana is pleased to publish the following award of Presiding Officer, Industrial Tribunal-cum-Labour Court-I, Faridabad in respect of the dispute between the workman and the management of M/s Janta Furniture House, Faridabad versus Rajbir Sharma.

BEFORE SHRI N.L. PRUTHI, PRESIDING OFFICER, INDUSTRIAL, TRIBUNAL-
CUM-LABOUR COURT-I, FARIDABAD

Reference No. 114/89

between

SHRI RAJBIR SHARMA C/O SHRI C.L. OBERAI, GENERAL SECRETARY, INTUC,
DISTRICT COUNCIL, 1-A/119, N.I.T. FARIDABAD

and

M/S JANTA FURNITURE HOUSE, C-28, NEHRU GROUND, N.I.T. FARIDABAD

present :

Shri Pardeep Sharma, Authorised Representative for Management.

Workman *ex-parte*.

AWARD

Under the provisions of section 10(1) of Industrial Disputes Act, 1947, the Government of Haryana have,—vide Endorsement No. OV/FD/45—89/10678—83, dated the 9th March, 1989, referred the following dispute between the parties above named for adjudication :—

Whether the termination/retrenchment of Shri Rajbir Sharma is legal and justified. If not, to what relief he is entitled?"

2. The case of the workman is that he was permanent employee of the Management and had been working with it as a Carpenter since November, 1980 and his last drawn wages were Rs. 975 p.m. The management did not pay him his wages for the month of August, 1988 for which he had sent a legal notice. The management got annoyed over it and terminated his services with effect from 4th October, 1988. This all was done in a revengeful manner without issuance of a notice or paying him compensation u/s 25F of the Industrial Disputes Act. It is on these facts that the workman has claimed his reinstatement with continuity of service and full back wages.

3. The defence taken by the management is that the workman was never its employee and has filed a false claim to cause harassment. This fact of non existence of relationship of master and servant was also highlighted in the written comments furnished by the management before the Deputy Labour Commissioner. Further stand of the management is that when there did not exist relationship of employer and employee, the reference is bad in law.

4. In the rejoinder, pleas taken in the demand notice have been reiterated while those in the written statement controverted.

5. On the pleadings of the parties, following issues were framed on 17th January, 1994 :—

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| (1) | As per reference. | OP Parties. |
| (2) | Whether there was relationship of employer and employee between the parties ? | OPW |

6. I have heard Authorised Representative for the management and persued the statement made on oath by the workman before he was proceeded *ex parte* as also the evidence led by the management. My findings on the issues framed with reasons therefor are as under :—

Issue No. 2

7. Joginder Singh Proprieter examined as MW-1 stated that he had shifted his business to Chandigarh in the Year, 1989, after closing his firm viz. Janta Furniture at Faridabad. He further stated that his business was of Trading and workman Rajbir Sharma was not in his employment and that the latter has filed a false claim just to blackmail him. In his examination as WW-1, the workman reiterated the facts as are contained in his demand notice but admitted in his cross examination that he had not made a complaint to the Labour Department that the management had not entered his name in the attendance register. He also admitted that he did not have ESI card. The un-rebutted evidence led by the management coupled with the admissions made by the workman show it that the workman had never remained in the employment of the management. Therefore, holding that there did not exist relationship of employer and employee between the two, this issue is decided against the workman and in favour of the management.

Issue No. 1:

8. As per findings on Issue No. 2, there did not exist relationship of employer and employee between the workman and the management. Therefore, there does not arise the question of termination of services of the workman and for that matter he is not entitled to any relief. An award is passed accordingly.

N.L. PRUTHI

The 30th November, 1994.

Presiding Officer,
Industrial Tribunal-cum-
Labour Court-I, Faridabad

Endorsement No. 392D, dated the 1st December, 1994.

A copy with, three spare copies, is forwarded to the Commissioner and Secretary to Government Haryana, Labour Department, Chandigarh.

N.L. PRUTHI

Presiding Officer,
Industrial Tribunal-cum-
Labour Court-I, Faridabad